



# RULE-MAKING ORDER

**CR-103E (July 2009)**  
(Implements RCW 34.05.360)

Agency: Dept. of Ecology AO# 09-08

**Emergency Rule Only**

**Effective date of rule:**

**Emergency Rules**

☒ Immediately upon filing.

☐ Later (specify) \_\_\_\_\_

**Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?**

☐ Yes

☒ No

If Yes, explain:

**Purpose:** This fifth Emergency Rule establishes a partial withdrawal of groundwater within a portion of WRIA 39 in Kittitas County, WA. The partial withdrawal and restrictions are designed to prevent new uses of water that negatively affect flows in the Yakima River and its tributaries. The withdrawal allows for continued development using the groundwater exemption or new permits when the new consumptive use is mitigated by one or more pre-1905 water rights held by Ecology in the trust water right program of equal or greater consumptive quantity. Withdrawals of ground water for structures for which building permit applications were vested prior to July 16, 2009 shall be allowed but shall be subject to curtailment. This emergency rule supersedes the one filed on July 16, 2009, WSR 09-15-107.

**Citation of existing rules affected by this order:**

Repealed: N/A

Amended: N/A

Suspended: N/A

**Statutory authority for adoption:** RCW 90.54.050

**Other authority :** Chapter 43.27A RCW

**EMERGENCY RULE**

Under RCW 34.05.350 the agency for good cause finds:

- ☒ That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- ☐ That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.
- ☐ That in order to implement the requirements or reductions in appropriations enacted in any budget for fiscal years 2009, 2010, or 2011, which necessitates the need for the immediate adoption, amendment, or repeal of a rule, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the fiscal needs or requirements of the agency.

Reasons for this finding:

The Yakima Basin is one of the state's most water-short areas. Water rights with priority dates as old as 1905 were shut off during the 2001 and 2005 droughts, and during 2004 when USBR prorated May 10, 1905 water rights. The town of Roslyn's municipal supply and another 133 single domestic, group domestic, and municipal water systems throughout the basin are subject to curtailment when USBR prorates the May 10, 1905 water rights. Water supply in the Yakima Basin is limited and over-appropriated. Western portions of Kittitas County are experiencing rapid growth and this growth is being largely served by exempt wells. Exempt wells in this area may negatively affect the flow of the Yakima River or its tributaries.

**Date adopted:** 7/31/09

**NAME (TYPE OR PRINT)**

Jay J. Manning

**SIGNATURE**

*Jay Manning by Polly Zehn*

**TITLE**

Director

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE:** July 31, 2009

**TIME:** 8:54 AM

**WSR 09-16-075**

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.**

**The number of sections adopted in order to comply with:**

<b>Federal statute:</b>	New	_____	Amended	_____	Repealed	_____
<b>Federal rules or standards:</b>	New	_____	Amended	_____	Repealed	_____
<b>Recently enacted state statutes:</b>	New	_____	Amended	_____	Repealed	_____

**The number of sections adopted at the request of a nongovernmental entity:**

New	<u>10</u>	Amended	_____	Repealed	_____
-----	-----------	---------	-------	----------	-------

**The number of sections adopted in the agency's own initiative:**

New	_____	Amended	_____	Repealed	_____
-----	-------	---------	-------	----------	-------

**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

New	_____	Amended	_____	Repealed	_____
-----	-------	---------	-------	----------	-------

**The number of sections adopted using:**

<b>Negotiated rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Pilot rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Other alternative rule making:</b>	New	_____	Amended	_____	Repealed	_____